

Nitin Kumar Chauhan
Vs.
MG Housing
CM No.103, 104 of 2025
Appeal No. 15 of 2018

Present: Mr. Nitin Kant Setia, Advocate,
for the appellant.

None for the respondent.

CM No.104 of 2025

This is an application (CM No.104 of 2025) for review of the order dated 03.12.2024 passed by this Bench.

2. Mr. Setia has referred to Clause 2.15 of the Buyers Agreement to contend that the applicant has right to terminate the agreement thereof and respondent is required to refund the amount remitted by the allottee.

3. All the issues are considered at length while delivering the order dated 03.12.2024. It was found that construction of 45-meter road was the responsibility of the State. Similarly placed allottees are stated to have possession of their respective units despite non-construction of 45-meter road. Relevant paras of the order are reproduced hereunder for ready reference:

7. Regarding the claim that the project was not located on a 45-meter wide sector road, the respondent stated that the construction of such roads was the responsibility of the State Government, as per the approved master plan, and that such roads may undergo changes over time. The respondent contended that no misrepresentation was made regarding the road width, and the obligations towards the State Government, including the payment of External Development Charges (EDC), had been duly fulfilled.

8. After considering the facts of the case and the submissions made by both parties, this Tribunal is satisfied that the respondent had issued notices regarding the change in the layout plan, and the

appellant did not object to the changes within the prescribed time frame. The Tribunal further notes that possession was offered to the appellant after the occupation certificate was issued, and the appellant failed to accept possession or pay the balance dues.

4. Mr. Setia submits that in view of judgment of Hon'ble Supreme Court in *M/s. Newtech Promoters and Developers Pvt. Ltd., Vs. State of UP & Others etc. 2021 SCC online SC 1044*, the appellant can claim refund at any stage. However, as would be clear from perusal of the order passed by this Bench, present is not a case of this nature as allottee failed to take possession of unit on the plea that a sector road had not been constructed. Besides the application is for review and not for re-hearing. Learned counsel for the parties were granted ample opportunity for hearing at the time of disposal of the case. Thus, there is no ground to interfere in review jurisdiction. Accordingly, application (CM No.104 of 2025) is hereby dismissed.

CM No.103 of 2025

1. As the application (CM No.104 of 2025) for review of order dated 03.12.2024 has been heard on merits, delay in filing the review application is deemed to have been condoned. Ordered accordingly.

2. Photocopy of this order be placed in files of Appeals No.16, 17 of 2018 and 838, 839 of 2022.

3. File be consigned to the records.

Justice Rajan Gupta
Chairman
Haryana Real Estate Appellate Tribunal

Rakesh Manocha
Member (Technical)
(joined through VC)

12.03.2025
Manoj Rana